



August 5, 2013

VIA ECF AND OVERNIGHT MAIL

Honorable William F. Kuntz, II, U.S.D.J.
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

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Re: U.S. Bank National Association, as Trustee for the registered holders of J.P. Morgan Chase Commercial Mortgage Securities Trust 2007-LDP11 Commercial Mortgage Pass-Through Certificates, Series 2007-LDP11, acting by and through its Special Servicer CWC Capital Asset Management LLC v. Israel Perlmutter et al.
Civil Action No. 1:11-cv-3086-WFK
(the "Guaranty Action")

Bank of America, N.A., as Trustee for the registered holders of J.P. Morgan Chase Commercial Mortgage Securities Trust 2007-LDP11 Commercial Mortgage Pass-Through Certificates, Series 2007-LDP11 v. South Side House LLC et al.
Civil Action No. 1:09-cv-00411-WFK
(the "Foreclosure Action")

Dear Judge Kuntz:

This Firm represents the Plaintiff in each of the above-referenced actions (the "Lender").¹ The actions relate to a commercial mortgage loan in the principal amount of \$29,000,000 that went into default in the Fall of 2008. The Borrower, South Side House, LLC, filed a bankruptcy petition in May, 2009 (E.D.N.Y. Bankr. Case No. 09-43576). Defendants Israel Perlmutter and Menachem Stark (the "Guarantors") are liable for all sums due under the \$29,000,000 loan by virtue of the Borrower filing a bankruptcy petition.

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¹ After the Foreclosure Action was commenced, but before the Guaranty Action was commenced, the Trustee for the Plaintiff Trust changed from Bank of America, N.A. to U.S. Bank National Association. Thus, the named Plaintiff Trustee in each action is different, but the underlying Plaintiff Trust is the same. For ease of reference, the term "Lender" is used interchangeably to refer to the current and former Trustee acting as trustee for the Trust. The change in trustee is not a new issue, and indeed, was disclosed by the Lender to the Honorable Brian M. Cogan, U.S.D.J., at a conference in the Foreclosure Action on June 21, 2011.

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In the Guaranty Action, pending before the Court are the Objections of the Guarantors to the Proposed Findings of Facts and Conclusions of Law of the Honorable Elizabeth S. Stong, U.S.B.J. Judge Stong recommended entry of summary judgment in favor of the Lender and against the Guarantors pursuant to their plain contractual liability for all sums due under the \$29,000,000 loan. The Objections of the Defendants were fully briefed in May, 2012.

Pending before the Court in the Foreclosure Action is a Motion filed by the Guarantors returnable October 5, 2012, purportedly to obtain declaratory relief, and in fact seeking to nullify a Court Order previously entered in the Foreclosure Action by the Honorable Brian M. Cogan, U.S.D.J. on June 22, 2011, pursuant to which the Lender was authorized to commence the Guaranty Action. The Motion was fully briefed in October, 2012.

The Lender respectfully requests a ruling on the above-referenced matters pending before the Court as soon as the Court's schedule permits. The subject loan went into default nearly five years ago, and the Lender seeks to pursue its remedies for enforcement of the defaulted commercial loan.

If Your Honor requires any additional information, please do not hesitate to have a member of Your Honor's staff contact me at (973) 639-2082.

Respectfully submitted,

/s Joseph Lubertazzi, Jr.
Joseph Lubertazzi, Jr.

cc: Melvin Hirshowitz, Esq. (via email and first class mail)